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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,153	08/25/2003	Carl J. Savage JR.	SAVAGE-1	1299

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EXAMINER

FETSUGA, ROBERT M

ART UNIT PAPER NUMBER

3751

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/647,153

Applicant(s)

SAVAGE, CARL J.

Examiner

Robert M. Fetsuga

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 8-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/25/03
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-7 and 13-15, drawn to a pool cover system, classified in class 4, subclass 502.

II. Claims 8-12, drawn to a method of improving an interconnection, classified in class 4, subclass 661.

The inventions are distinct, each from the other because:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process can be practiced with a product not requiring connectors.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification which would lead to divergent fields of search, restriction for examination purposes as indicated is proper.

2. During a telephone conversation with Eric A. LaMorte on September 16, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-7 and 13-16.

Art Unit: 3751

Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. The claim hierarchy does not appear to be in accordance with MPEP 608.01(m). Claims remaining at allowance may require renumbering.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 2 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Doscher.

The Doscher reference discloses a cover system comprising:  
a storage reel G; a cover L; a rigid plate 5; a first set of

Art Unit: 3751

fasteners 8; and a second set of fasteners 3, as claimed. The initial statement of intended use (pool), and all other functional implications related thereto, have been considered but do not appear to impose any patentably distinguishing structure over that disclosed by Doscher.

6. Claims 1, 2 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Karasiewicz.

The Karasiewicz reference discloses a cover system comprising: a storage reel 81; a cover 50; a rigid plate 67; a first set of fasteners 80; and a second set of fasteners 69, as claimed.

7. Claims 1-5, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Varnado and Doscher.

The Varnado reference discloses a cover system comprising: a storage reel 13; a cover 14; multiple, spaced reinforcements (fastening 21 to 14, Fig. 2); a first set of fasteners (sentence bridging cols. 3 and 4); and a second set of fasteners (illustrated, Fig. 2). Therefore, Varnado teaches all claimed elements except for the reinforcements being rigid.

Although the reinforcements of the Varnado cover are not rigid, as claimed, attention is directed to the Doscher reference which discloses an analogous cover which further includes a reinforcement 5 that is rigid (metallic). Therefore,

Art Unit: 3751

in consideration of Doscher, it would have been obvious to one of ordinary skill in the art to associate rigidity with the Varnado reinforcements in order to add stiffness and strength to the cover.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Varnado and Doscher as applied to claim 5 above, and further in view of Guard et al.

Although the fasteners of the Varnado cover are not of the same type, as claimed, attention is directed to the Guard et al. (Guard) reference which discloses an analogous cover which further includes fasteners 56,58,60 of the same type.

Therefore, in consideration of Guard, it would have been obvious to one of ordinary skill in the art to associate fasteners of the same type with the Varnado cover in order to facilitate assembly.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Varnado and Doscher as applied to claim 14 above, and further in view of Mark.

Although the fasteners of the Varnado cover do not include hook connectors, as claimed, attention is directed to the Mark reference which discloses an analogous cover which further includes hook connector fasteners 12,15. Therefore, in consideration of Mark, it would have been obvious to one of

Art Unit: 3751

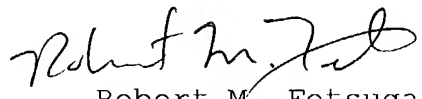
ordinary skill in the art to associate hook connectors with the Varnado fasteners in order to facilitate assembly.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Varnado, Doscher and Guard as applied to claim 6 above, and further in view of Mark.

To associate hook connectors with the Varnado fasteners would have been obvious to one of ordinary skill in the art in consideration of Mark analogous to the discussion supra.

11. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

12. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Monday through Thursday.

  
Robert M. Fetsuga  
Primary Examiner  
Art Unit 3751